

**REMARKS:**

Claims 1-3 and 5-20 are pending in the present application.

In the Final Office Action dated August 21, 2003, the Examiner rejected claims 1-3, 5, 7-11, 13-17, 19 and 20 as being anticipated by U.S. Patent No. 6,077,144 issued to Fishman, pursuant to 35 U.S.C. § 102(b). Furthermore, claims 9 and 13 were rejected as being obvious in view of the '144 Patent, pursuant to 35 U.S.C. § 103(a). In response, Applicant submitted a further Amendment on September 5, 2003 that it believed would place all claims in condition for allowance.

The Examiner disagreed and issued an Advisory Action, stating that the Amendment failed to place the application in condition for allowance. Applicant respectfully disagrees, but nonetheless has chosen to make further amendments to the claims in conjunction with a Request for Continued Examination. Upon reviewing these further amendments, should the Examiner conclude that there are any further impediments to allowance, Applicant would appreciate the opportunity to participate in a telephonic interview with the Examiner and/or the Supervisory Examiner to discuss possible resolutions to any remaining issues in advance of any appeal.

First, the cited prior art reference, U.S. Patent No. 6,077,144, describes and claims a "Lollipop Holder with Random Display." The device includes a holder 34 (i.e., a coupling member) for retaining and receiving a lollipop stick. A spring 38 is also described, but this internal spring 38 is used, in conjunction with a post 36, to urge the holder 34 into coaxial alignment with an aperture 24. See Column 2; lines 36-38. As the Examiner recognized in the recent Office Action, the holder 34 is only "indirectly" secured to the spring 38.

Furthermore, with respect to the '144 Patent, the Examiner has maintained that a "ring" is

described in the '144 Patent, namely a spring mount 42 (which is also referred to as a mounting plate in the '144 Patent). Even if this spring mount 42 is an annular member, the spring mount 42 of the '144 Patent is clearly not the type of ring contemplated by the claims of the present application, specifically "a small circular band...worn on the finger." See The American Heritage® Dictionary of the English Language, Fourth Edition (Houghton Mifflin Company 2000). In this regard, it is well-recognized that "[i]n defining the meaning of key terms in a claim, reference may be had to the specification, the prosecution history, prior art, and other claims." Carroll Touch Inc. v. Electro Mechanical Systems, Inc., 3 F.3d 404, 409, 27 USPQ2d 1836, 1839-40 (Fed. Cir. 1993), citing Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976, F.2d 1559, 1566, 24 USPQ2d 1321, 1327 (Fed Cir. 1992). It is clear throughout the specification of the present application that the claimed "ring" is a band worn on a finger. The language of the claims further clarifies this definition in reciting that the ring is adapted to be worn by an individual. Nevertheless, the meaning of the term "ring" is manifest even without such a clarification. Therefore, although the spring mount 42 of the '144 Patent may be characterized as a ring to the extent it is an annular member, as an internal component, an individual can not even access the spring mount 42, much less wear it on a finger.

In any event, in accordance with the Examiner's recognition that the '144 Patent does not teach a construction in which a spring is secured directly to a ring, Applicant has amended independent claim 1 to clarify that the lower distal end of the spring is secured directly to the ring. Similarly, independent claim 17 has been amended to clarify that the lower distal end of the spring is secured directly to the spring base plate. With respect to such amendments, Applicant does recognize the Examiner's notation in the recent Advisory Action that adding such a

limitation is not adequate to overcome the cited prior art reference because “the coupling member is indirectly connected to the spring.” However, Applicant is somewhat perplexed by this statement since the amendments were made to clarify the spring was secured directly to the ring or spring base plate.

In any event, Applicant believes it important to keep in mind that the nature and function of the present invention. The ring of the present invention is worn on the finger of an individual (i.e., a child) and has a substantially flat upper surface to which a spring is secured. A coupling member is then secured to the opposite end of the spring for receiving and retaining the lollipop or similar object, resulting in a novelty item that has great appeal to children. Specifically, the free movement of the spring relative to the ring is an attractive, visually pleasing feature of the present invention.

With this in mind, Applicant has further revised the claims to clarify the relationship of the spring to the ring. As shown in the various Figures, the spring 16 is secured to the ring 12 in a substantially perpendicular relationship to the central axis defined by the ring 12. Thus, when the ring 12 is worn on the finger of a child, the spring 16 can move freely and unhindered by the fingers of the child. For example, the bouncing and swaying motion of the spring 16 on top of a child’s hand can be readily visualized with reference to the Figures. Independent claims 1, 14, and 17 have all been amended to recite this geometrical relationship between the ring 12 and spring 16.

The ‘144 Patent clearly does not describe or suggest such a construction. Quite to the contrary, even if the spring mount 42 of the ‘144 Patent was accessible, a finger could not be inserted through it without contacting the spring 38. Furthermore, even if the spring 38 had a

sufficient internal diameter such that a finger could be inserted into it, the movement of the spring would clearly be impeded by the finger (if not by the inner walls 44 of the device).

Therefore, Applicant respectfully submits that claims 1-5, 5-13, and 17-20 are now in condition for allowance, and Applicant respectfully requests that the Examiner issue a Notice of Allowance. Again, should the Examiner conclude that there are any further impediments to allowance, Applicant would appreciate the opportunity to participate in a telephonic interview with the Examiner and/or the Supervisory Examiner to discuss possible resolutions to any remaining issues in advance of any appeal.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. W. Nagle, Jr.", with a stylized flourish at the end.

David W. Nagle, Jr., Reg. No. 42,923  
**STITES & HARBISON, PLLC**  
400 W. Market Street  
Louisville, Kentucky 40202-3352  
Phone (502) 587-3400  
Facsimile (502) 587-6391